

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE MADAM)
)
JUSTICE GILMORE) WEDNESDAY, THE 29th DAY
) OF APRIL, 2020

BETWEEN:

ORIONIS CORPORATION

Applicant

- and -

ONTARIO GRAPHITE, LTD.

Respondent

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED

CCAA TERMINATION ORDER

THIS MOTION, made by Deloitte Restructuring Inc. ("**Deloitte**" or the "**Monitor**"), in its capacity as the Court-appointed Monitor in respect of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 as amended ("**CCAA**") proceedings of the respondent, Ontario Graphite, Ltd. ("**OGL**") for an order (i) terminating the within CCAA proceedings, (ii) approving the Second Report of the Monitor dated April 21, 2020 (the "**Second Report**"), the Supplement to the Second Report of the Monitor dated April 28, 2020 (the "**Supplement to the Second Report**"), the activities set out therein, and all prior reports filed and activities described therein (iii) authorizing the discharge of the Monitor, and (iv) approving the professional fees

and disbursements of the Monitor and its counsel, and such further relief as may be required in the circumstances and which this Court deems as just and equitable, was heard by videoconference this day at 330 University Avenue, Toronto, Ontario, in accordance with the Changes to the operations of the Commercial List and the Notice to the Profession updated April 2, 2020 in light of the COVID-19 pandemic.

ON READING the Second Report, the Supplement to the Second Report, the affidavit of Alex MacFarlane sworn April 28, 2020 (the “**MacFarlane Affidavit**”), and the affidavit of Todd Ambachtsheer, sworn April 28, 2020 (the “**Ambachtsheer Affidavit**”), filed, and on hearing the submissions of counsel for the Monitor, counsel for OGL, counsel for the Applicant Orionis Corporation (“**Orionis**”), and such other parties who were in attendance and no one else appearing although served as evidenced by the Affidavit of Service of Adrianna Gaspari sworn April 28, 2020, filed,

1. **THIS COURT ORDERS** that all defined terms used herein, not otherwise defined shall have the meaning attributed to them in the Second Report and the Initial Order as Amended and Restated dated February 20, 2020 (the “**Initial Order**”).
2. **THIS COURT ORDERS** that the time for service of the Notice of Motion and Motion Record is validated so that the Motion is properly returnable today and hereby dispenses with further service thereof, including without limitation, any prescribed notice requirements under the CCAA.
3. **THIS COURT ORDERS** that the Second Report, the Supplement to the Second Report, all prior reports filed by the Monitor in these proceedings, and the activities of the Monitor as set out therein be and are hereby approved.
4. **THIS COURT ORDERS AND DECLARES** that the Monitor has duly and properly satisfied, discharged and performed all of its obligations, liabilities, responsibilities and duties in respect of the CCAA proceedings and in accordance with the CCAA, the Initial Order, and all other Orders of this Court made in the within proceedings.
5. **THIS COURT ORDERS** that the within CCAA proceeding, bearing Court File No. CV-20-00634195-00CL (the “**CCAA Proceedings**”) is hereby terminated, effective on the date and

time (the “**CCAA Termination Date**”) at which the Monitor files the certificate, substantially in the form attached hereto as Schedule “A” (the “**Monitor’s Certificate**”), certifying that all matters to be attended to in connection with the CCAA Proceedings have been completed, including a sharing of the information required for the appropriate regulators to take the steps required to safeguard public health and safety and the environment, and the CCAA Proceedings shall be automatically terminated without any further act or formality.

6. **THIS COURT ORDERS** that the Stay Period as set out in the Initial Order shall expire on the CCAA Termination Date.

7. **THIS COURT ORDERS** that the Monitor shall, at least 5 days prior to the proposed CCAA Termination Date, post on the Monitor’s website and serve on the Service List for these CCAA Proceedings notice of the Monitor’s intention to file the Monitor’s Certificate.

8. **THIS COURT ORDERS** that the fees and disbursements of the Monitor up to and including April 29, 2020, as set out in the Ambachtsheer Affidavit, are hereby approved, and that the fees and disbursements of the Monitor as estimated not to exceed \$50,000, incurred in connection with the completion by the Monitor of its remaining duties and the administration of the CCAA Proceedings, are hereby approved without further Order of the Court.

9. **THIS COURT ORDERS** that the fees and disbursements of the Monitor’s counsel up to and including April 26, 2020, as set out in the MacFarlane Affidavit, are hereby approved, and that the fees and disbursements of the Monitor’s counsel as estimated not to exceed \$30,000, incurred in connection with the completion by the Monitor of its remaining duties and the administration of the CCAA Proceedings, are hereby approved without further Order of the Court.

10. **THIS COURT ORDERS AND DECLARES** that, effective as at the CCAA Termination Date, Deloitte shall be discharged as Monitor and shall have no further duties, obligations or responsibilities as Monitor in these CCAA Proceedings.

11. **THIS COURT ORDERS** that the Monitor and its counsel and each of their respective affiliates, officers, directors, partners, employees and agents (collectively, the “**Released Persons**”) shall be and are hereby released and discharged from any and all claims that any

person may have or be entitled to assert against the Released Persons, whether known or unknown, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place on or prior to the date of this Order in any way relating to, arising out of or in respect of the within proceedings or with respect to their conduct in the within proceedings (collectively, the “**Released Claims**”), and any such Released Claims are hereby released, stayed, extinguished and forever barred, and the Released Persons shall have no liability in respect thereof, provided that the Released Claims shall not include any claim or liability arising out of any gross negligence or wilful misconduct on the part of the Released Persons.

12. **THIS COURT ORDERS** that, at the CCAA Termination Date, and subject to paragraph 13 below, the Released Persons shall be released and discharged from any and all claims that any person may have or be entitled to assert against the Released Persons, whether known or unknown, foreseen or unforeseen, existing or thereafter arising, based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place following the date of this Order in any way relating to, arising out of or in respect of the within proceedings or with respect to their respective conduct in the within proceedings (collectively, the “**Subsequent Released Claims**”), and any such Subsequent Released Claims shall be released, stayed, extinguished and forever barred and the Released Persons shall have no liability in respect thereof, provided that the Subsequent Released Claims shall not include any claim or liability arising out of any gross negligence or wilful misconduct on the part of the Released Persons.

13. **THIS COURT ORDERS** that in the event that any person objects to the release and discharge of the Subsequent Released Claims, that person must send a written notice of objection and the grounds thereof to the Monitor such that the notice of objection is received by the Monitor prior to the proposed CCAA Termination Date. If no objection is received by the Monitor prior to the CCAA Termination Date, the release and discharge of Subsequent Released Claims pursuant to paragraph 12 above shall be automatically deemed effective upon the CCAA Termination Date, without further Order of the Court. If an objection is received prior to the CCAA Termination Date, the release and discharge of the Subsequent Released Claims shall not become effective pending further Order of the Court.

14. **THIS COURT ORDERS** that, notwithstanding any provision of this Order, the termination of the CCAA Proceedings or the discharge of the Monitor, nothing herein shall affect, vary, derogate from, limit or amend, and the Monitor and its counsel shall continue to have the benefit of, the approvals and protections in favour of the Monitor at law or pursuant to the Initial Order or any other Order of this Court in the CCAA Proceedings, all of which are expressly continued and confirmed, including in connection with any actions taken by the Monitor pursuant to this Order following the filing of the Monitor's Certificate.

15. **THIS COURT ORDERS** that all charges, and in particular the Administration Charge, Directors' Charge and DIP Lender's Charge, shall survive and remain in place following the CCAA Termination Date, and on the same basis and priority as set out in the Initial Order.

16. **THIS COURT ORDERS** that, notwithstanding the discharge of the Monitor and the termination of the CCAA Proceedings, this Court shall remain seized of any matter arising from these CCAA Proceedings, and each of Orionis, OGL, the Monitor and any other interested party shall have the authority from and after the date of this Order to apply to this Court to address matters ancillary or incidental to these CCAA Proceedings notwithstanding the termination thereof. The Monitor is authorized to take such steps and actions as the Monitor determines are necessary to give effect to this Order following the date of this Order until the CCAA Termination Date.

THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist OGL and the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist OGL and the Monitor and their agents in carrying out the terms of this Order.



Schedule "A"

FORM OF MONITOR'S CERTIFICATE

Court File No. CV-20-00634195-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

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Applicant

- and -

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MONITOR'S CERTIFICATE

RECITALS

1. Ontario Graphite, Ltd. ("**OGL**") obtained protection under the *Companies' Creditors Arrangement Act* (the "**CCAA**") pursuant to an Initial Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**"), as amended and restated on February 20, 2020 (the "**Initial Order**")
2. Deloitte Restructuring Inc. (in such capacity, the "**Monitor**") was appointed as the Monitor of OGL in the CCAA Proceedings pursuant to the Initial Order.

3. Pursuant to the Termination Order, granted April 29, 2020, the Court approved, among other things, the termination of the CCAA Proceedings effective at the date and time on which the Monitor files this Monitor's certificate with the Court (the "**CCAA Termination Date**").

THE MONITOR CONFIRMS the following:

4. The Monitor has been informed by OGL that all matters to be attended to in connection with the CCAA Proceedings have been completed.

5. The Monitor confirms that with respect to the Mine previously operated by OGL and located at Kearney, Ontario, the information required for the appropriate regulators to take the steps required to safeguard public health and safety and the environment has been shared.

6. Accordingly, the CCAA Termination Date has occurred at the date and time set forth below.

DATED at Toronto, Ontario this _____ day of _____, 2020

**DELOITTE RESTRUCTURING INC., solely in
its capacity as Monitor and not in its
personal capacity**

Per: _____

Name:

Title:

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

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**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT TORONTO

CCAA TERMINATION ORDER

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Lawyers for Deloitte Restructuring Inc., in its capacity as
Court-Appointed Monitor